



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,343	01/22/2001	Daryl E. Eicher JR.	58462.000007	9031

29315 7590 10/17/2002

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC  
12010 SUNSET HILL ROAD  
SUITE 900  
RESTON, VA 20190

EXAMINER  
JEANTY, ROMAIN

ART. UNIT 3623 PAPER NUMBER

DATE MAILED: 10/17/2002

1.  This action is responsive to amendment(s) filed on 22 January 2001.

2(a)  This action is FINAL.  This action is non-final.

Please find below and/or attached an Office communication concerning this application or proceeding.

risk profiles

3.  A full search has been conducted except where specifically indicated.
4.  A partial search has been conducted under circumstances which do not warrant a full search.
5.  A search was not deemed necessary.
6.  A search was not made.
7.  Claims(s) are/were objected to.
- 8(a)  Claims(s) are subject to restriction and/or election requirement.
- Application Papers
- 9( The specification is objected to by the Examiner.
- 10( The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/765,343	EICHER ET AL.
	Examiner Romain Jeanty	Art Unit 3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 January 2001.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. It is noted that paper numbers 6 and 7 were filed on September 24, 2001 and November 20, 2001. However, these papers could not be found in the application. Several attempts have been made to contact the Attorney of record in an attempt to get these papers. However, phone calls were not returned.

For the reasons stated above, paper numbers 6 and 7 have not been considered.

**Specification**

2. The specification is objected to because of the following informalities:

Page 1, line 2-15, Application numbers of cited commonly owned applications are subject matter which the applicant regards as his invention. missing. Applicant is required to submit these Application numbers.

Page 32, line 5 "disbursed" should be --dispersed--.

Page 33, line 11, "comprises" should be -comprise--.

Page 36, line 7, after "modules" please add --Fig. 4--.

Page 41, line 2, "monitors" should be --monitor--.

Page 44, line 20, the acronym "SCOR" needs to be defined.

Page 46, line 1, "process 300" should be --process 300 (Fig. 7)--.

Page 47, line 1-6, Lists 1-5 have not been shown anywhere in the specification or the drawings.

Page 49, line 10, "502" should be --504--.

Page 52, line 8, "114" should be --in step 114 (Fig. 1)--

Page 53, line 8, "of" should" --for--

Page 55, line 6, " basic information the partner..." should be --basic information of or about the partner--

Page 59, line 19, "such and" should be --such as--.

Page 60, line 15, an agent "818" is not shown in Fig. 15. It is suggested that in this Q.T. application,

Applicant is reminded that Appropriate corrections as mentioned above as well as others throughout the specification are required for the benefit of the Patent Community.

#### **Claim Rejections - 35 USC §112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 7, 9-10, 17, 19-20 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7, 17 and 27 recite the limitation "the business relationship" in line 2. It is unclear as to what business relationship applicant is referring to. There is insufficient antecedent basis for this limitation in the claims. Applicant is requested to amend the claims to recite a proper antecedent basis.

Claims 9-10 and 19-20 recite the limitation "the server system" in line 2. It is unclear as to what server system applicant is referring to. There is insufficient antecedent basis for this limitation in the claim. Applicant is requested to amend the claims to recite a proper antecedent basis.

### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 4-12, 14-22, 24-27 and 29-30 are rejected under 35 USC 103(a) as being unpatented over Conklin et al (herein referred to as Conklin U.S. Patent No. 6,338,050).

As per claim 1, Conklin discloses a negotiations system for negotiating and tracking changes messages contracts comprising: enabling communication between sellers and buyers which includes information of a product and at least one key performance indicators (contract terms) (See figures 1a, 11a-1; col. 14, lines 1-14 and col. 17, lines 17-32);

monitoring the activity of contract terms by data extraction (col. 14, lines 2-19; col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

It is noted that even though Conklin does not explicitly disclose specific operating systems such as an engagement, monitoring and server module. However, it would have been obvious to one ordinary skill in the art that these operating systems are desirable and required to produce an operational system incorporating the present invention.

As per claim 2, Conklin discloses the system of claim 1 wherein business documents exchanged between buyer and supplier comprise a markup language document with tags to indicate data to be monitored (i.e. creating HTML or XML language documents to communicate between sellers and buyers) (col. 20, lines 44-51).

As per claim 4, Conklin discloses monitoring terms and contracts between the buyer and the seller by extracting document data (col. 14, lines 20-29 and col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

As per claim 5, Conklin discloses monitoring more than one negotiated terms “performance indicators” (col. 14 lines 61-64).

As per claim 6, Concklin discloses keeping track of set of changes “deviations” (col. 24, lines 27-35) in the negotiations and alerts “sending changes messages” to an entity terminal (col. 26, lines 3-10 and col. 34, lines 39-47). As per claim 12, Conklin discloses the system of claim 1 who

As per claim 7, Concklin discloses evaluating business relationship between the buyers and the sellers (i.e. evaluating proposed terms between buyers and sellers (col. 23 line 63 through col. 24 line 12).

As per claim 8, Conklin discloses a negotiating engine for helping participants to buy from any other seller (col. 25, lines 18-25).

As per claim 9, Conklin discloses a server for allowing communications between buyers and sellers and documents to pass through (col. 18, lines 47-65).

As per claim 10, Conklin discloses a server for allowing communications between buyers and sellers and documents to pass through (col. 18, line [REDACTED])

As per claim 11, Conklin discloses a negotiations system for negotiating and tracking contracts comprising:

A negotiating system connecting to users' terminals through a network (col. 24, lines 21-30) for enabling communication between sellers and buyers which includes information of a product and at least one key performance indicators (contract terms) (See figures 1a, 11a-1 and 11a-2 col. 17, lines 17-32);

monitoring the activity of contract terms by data extraction (col. 14, lines 2-19; col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

It is noted that even though Conklin does not explicitly disclose specific operating systems such as an engagement, monitoring and server module. However, it would have been obvious to one ordinary skill in the art that these operating systems are desirable and required to produce an operational system incorporating the present invention. Conklin discloses a server for allowing con-

As per claim 12, Conklin discloses the system of claim 1 wherein business documents (col. 18, lines 47-65), i.e. exchanged between buyer and supplier comprise a markup language document with tags to indicated data to be monitored (i.e. creating HTML or XML language documents to communicate between sellers and buyers) (col. 20, lines 44-51).

As per claim 14, Conklin discloses monitoring terms and contracts between the buyer and the seller by extracting document data (col. 14, lines 20-29 and col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

As per claim 15, Conklin discloses monitoring more than one negotiated terms "performance indicators" a (col. 14 lines 61-64).

As per claim 16, Concklin discloses keeping track of set of changes "deviations" (col. 24, lines 27-35) in the negotiations and alerts "sending changes messages" to an entity terminal (col. 26, lines 3-10 and col. 34, lines 39-47).

As per claim 17, Concklin discloses evaluating business relationship between the buyers and the sellers (i.e. evaluating proposed terms between buyers and sellers (col. 23 line 63 through col. 24 line 12)).  
Sgt. Concklin does not explicitly disclose or teach any of the above features.

As per claim 18, Concklin discloses a negotiating engine for helping participants to buy from any other seller (col. 25, lines 18-25).

As per claim 19, Concklin discloses wherein all communications between buyer and supplier pass through a server system (i.e. the server for allowing communications between buyers and sellers and documents to pass through (col. 18, lines 47-65). Agreement is reached on all points.

As per claim 20, Concklin discloses a server for allowing communications between buyers and sellers and documents to pass through (col. 18, lines 47-65) (in U.S. Patent No. 6,338,050).

Claim 21 is for method performing the system of claim 1 and is similarly rejected.

Claim 22 is for method performing the system of claim 12 and is similarly rejected.

Claim 24 is for method performing the system of claim 4 and is similarly rejected.

Claim 25 is for method performing the system of claim 5 and is similarly rejected.

Claim 26 is for method performing the system of claim 6 and is similarly rejected.

Claim 27 is for method performing the system of claim 7 and is similarly rejected.

Claim 29 is for method performing the system of claim 9 and is similarly rejected.

Claim 30 is for method performing the system of claim 10 and is similarly rejected.

7. Claims 3, 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin et al (herein referred to Conklin U.S. Patent No. 6,338,050) as applied to claims 1-2, 11-12, and 22-23 in view of Sandhu et al (herein referred to as Sandhu U.S Patent No. 6,347,307).

As per claims 3, 13, 23, Conklin discloses using markup language (col. 20, lines 44-51), but Conklin does not explicitly disclose using a markup language comprising of pXML. Sandhu on the other hand, discloses using XML and parsers (pXML) for extracting document data (col. 8, lines 15-26 and col. 36, lines 50-63). It would have been obvious to a person of ordinary skill in the art to modify the negotiations system of Conklin by including an XML and parsers as taught by Sandhu. Doing so would allow buyers and sellers to negotiate prices, terms and conditions iteratively until an agreement is reached on all points. (Claim Visibility at IWMG 2001).

8. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin et al (herein referred to Concklin U.S. Patent No. 6,338,050) as applied to claims 1-2, 11-12, and 22-23 in view of Sandhu et al (herein referred to as Sandhu U.S Patent No. 6,347,307).

As per claim 28, Conklin discloses all the limitations above except for the explicit recitation of enabling buyers and suppliers to initiate an engagement based on information extracted from previous relationship between the buyer and the supplier. However, Conklin does teach maintaining internal databases that contain the history of all transactions in each community, so that sponsors, buyers and sellers may retrieve appropriate records to document each stage of interaction and negotiation as noted in col. 14, lines 24-29. Such a teaching suggests information are extracted from previous relationship by the buyer and supplier. Obvious to modify Conklin to incorporate extracted from previous relationship by the buyer and supplier for the motivation of proposing and negotiating orders and counter offers.

### Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - a. Meltzer et al (U.S. Patent No. 6,226,675) discloses a server parsing XML document between trading participants. .... Bevan et al (702) 1025-0643.
  - b. Gaus et al (U.S. Patent No. 6,343,277) discloses a method for facilitating a transaction between a consumer and an energy supplier.
  - c. Dialog (File 13, Accession No. 01190584) discloses "Exclusive Benchmarking Study: Logistics Wrestles With Service as Shipment Complaints Double" [http://www.tilionsupply.com/whitepapers](#)
  - d. Dialog (File 20, Accession No. 15118307) discloses "Seeing Through Walls: Tilion Introduces Supply Chain Visibility at DEMO 2001".
  - e. Dialog (file 20, Accession No. 15116922) discloses Tilion Unveils Internet-Based Supply Chain Visibility Service; Selected by Peregrine Systems(R) to provide Analytics right to Crystal Park.
  - f. Dialog (File 16, Accession No. 05919992) discloses "Idx to Introduce Internet-based Enterprise Information Solution; System Provides Visibility and Analysis for Manufacturing Enterprise and Its Supply chain".
  - g. Rhonda et al (Dialog file 13, Accession No. 01100775) discloses "Strategic Supply Chain Planning".
  - h. Klein et al (Dialog file 15, Accession No. 02271186) discloses "An evaluation of supply chain performance in the Canadian pork sector".

Any inquiry concerning this communication or earlier communications from the examiner should be directed Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm.

If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington VA, seventh floor receptionist.



Romain Jeanty

August 24, 2002

Patent Examiner

Art Unit 3623